FILED
AUG 09 2012
Kansas
Securities Commissioner

BEFORE THE SECURITIES COMMISSIONER
OF THE STATE OF KANSAS

In the Matter of:

HUGH E. CARTER (CRD #4953822),

Respondent.

Docket No. 12 E 022
KSC No. 2009-5605

_____/
Pursuant to K.S.A. 17-12a412

STIPULATION FOR CONSENT ORDER

This proceeding follows an examination and investigation conducted by the staff of the Office of the Kansas Securities Commissioner, pursuant to K.S.A. 17-12a411(d) and K.S.A. 17-12a602. As a result of the examination and investigation, staff for the Office of the Kansas Securities Commissioner alleges that:

Allegations of Fact

1. Respondent is currently registered with the Office of the Kansas Securities Commissioner as an agent of a broker-dealer and an investment adviser representative for Wells Fargo Advisors, LLC.

2. At the time when the actions relevant to this Stipulation for Consent Order occurred, Respondent was registered with the Office of the Kansas Securities Commissioner as an agent of a broker-dealer and an investment adviser representative for UBS Financial Services, Inc. (UBS).

3. In September of 2007, [redacted] ([redacted]), a resident of the State of Kansas, opened an Individual Retirement Account (IRA) with UBS.

4. Respondent served as the broker-dealer agent that handled transactions in [redacted]'s IRA with UBS.

Unsuitable Recommendation

5. On August 31, 2007, [redacted] executed a document for UBS titled "Client Information and Agreement for Individuals 2" (client information form).

6. Said client information form states:

   (a) [redacted] has an annual income of $22,000;

   (b) [redacted] has liquid assets of $30,000;

   (c) [redacted] has a net worth (exclusive of residence) of $350,000;

   (d) [redacted] has 10 years of experience investing in equities, 10 years of experience investing in bonds, no experience investing in futures, and no experience investing in options;

   (e) [redacted]'s date of birth is [redacted]; and

   (f) [redacted] is retired.

7. On January 1, 2008, [redacted] maintained one account with UBS. Said account was an IRA identified as Account No. [redacted] and valued at $84,643.97.

8. In January of 2008, [redacted] informed the Respondent that he was afraid of the market and he wanted to take his money and put it in a certificate of deposit at a local financial institution.

9. [redacted] further informed the Respondent that he had located a certificate of deposit at a local financial institution which was paying an annual interest rate of 4.75%.

10. [redacted] advised the Respondent that he wanted to liquidate his UBS IRA account and have the proceeds transferred to the local financial institution offering the above referenced certificate of deposit.

11. As an alternative to the purchase of the certificate of deposit, the Respondent

recommended that [redacted] purchase Lehman Brothers Principal Protection Notes offered by UBS.

12. On January 25, 2008, $80,000 worth of Lehman Brothers 100% Principal Protection Callable Spread Daily Accrual Notes with Interest Linked to the Spread between the 30-year and the 2-year Swap Rates (Lehman Notes) were purchased, at [redacted]'s direction, by [redacted]'s UBS IRA account.

13. The Lehman Notes were purchased upon the recommendation of the Respondent.

14. By October 2008, the Lehman Notes were completely worthless due to the well-publicized bankruptcy of Lehman Brothers.

15. [redacted] unequivocally indicated his desire to purchase a certificate of deposit from a local financial institution. Such fact, combined with [redacted]'s previous statement that he was afraid of the market was a clear indication of the level of risk that [redacted] was willing to accept. However, the Lehman notes recommended by the Respondent exceeded [redacted]'s acceptable risk level. Therefore, the Lehman notes were unsuitable for [redacted].

16. UBS set minimum eligibility requirements of $1million in net worth and $200,000 in annual income for investments in the Lehman Notes.

17. At the time the Lehman Notes were purchased, [redacted] had a net worth of less than $1 million and an annual income of less than $200,000.

18. [redacted] did not meet the minimum eligibility requirements set by UBS for investment in the Lehman Notes.

19. Based on UBS's eligibility requirements, Respondent knew or should have known the Lehman Notes were unsuitable for [redacted].

Failure to Observe General Standard of Conduct

20. When the Respondent first attempted to enter the purchase of the Lehman Notes, on behalf of [redacted], into the UBS computer system, the trade was rejected.

21. After the trade was rejected, the Respondent altered [redacted]'s account information to reflect a net worth of $1 million and an annual income of $200,000.

22. A net worth of $1million and an annual income of $200,000 were the minimum eligibility requirements set by UBS for the Lehman Notes.

23. Respondent altered [redacted]'s account information for the purpose of effectuating the purchase of the Lehman Notes.

Allegations of Law

Unsuitable Recommendation

24. In January of 2008, Respondent recommended that [redacted] purchase the Lehman Notes without reasonable grounds to believe that the purchase was suitable for [redacted] based upon reasonable inquiry concerning [redacted]'s investment objectives, financial situation and needs, and any other relevant information known by the Respondent, in violation K.A.R. 81-3-6(e)(3).

Failure to Observe General Standard of Conduct

25. In January of 2008, Respondent altered [redacted]'s account information for the purpose of effectuating the purchase of the Lehman Notes; therefore, the Respondent failed to observe high standards of commercial honor and just and equitable principles of trade in the conduct of the Respondent's business, in violation of K.A.R. 81-3-6(c).

Respondent, wishing to obtain disposition of this matter without invoking any right to a hearing before the Securities Commissioner, or his designee, has determined not to contest the issuance of an order by the Commissioner on the basis of the above allegations.

IT IS THEREFORE STIPULATED AND AGREED by and between Respondent and staff for the Kansas Securities Commissioner that:

1. The Consent Order may be issued by the Kansas Securities Commissioner without further proceedings in this matter.
2. Respondent neither admits nor denies the allegations of the Commissioner's staff.
3. Respondent agrees that:
    a. he will pay a fine of $2,500.00;
    b. complete and full payment of said fine will be delivered to the Office of the Kansas Securities Commissioner located at 109 SW 9th Street, Suite 600, Topeka Kansas, 66612 in the following amounts and by the following dates: (i) $250.00 within 30 days of the date of the Consent Order, (ii) $250.00 within 60 days of the date of the Consent Order, (iii) $250.00 within 90 days of the date of the Consent Order, (iv) $250.00 within 120 days of the date of the Consent Order, (v) $250.00 within 150 days of the date of the Consent Order, (vi) $250.00 within 180 days of the date of the Consent Order, (vii) $250.00 within 210 days of the date of the Consent Order, (viii) $250.00 within 240 days of the date of the Consent Order, (ix) $250.00 within 270 days of the date of the Consent Order, and (x) $250.00 within 300 days of the date of the Consent Order;

c. said payments shall be paid in the form of cashier's checks or money orders made payable to the Office of the Kansas Securities Commissioner; and

d. Respondent's registration as an agent of a broker-dealer and an investment adviser representative in the State of Kansas shall be conditioned on the Respondent completing the payments described herein.

4. Staff for the Kansas Securities Commissioner agrees that the Allegations of Fact recited in this Stipulation for Consent Order shall not be used as the basis for any further actions by the Kansas Securities Commissioner against the Respondent.

5. Respondent hereby waives his right to a hearing before the Commissioner with respect to this matter, the issuance of the Consent Order, and the above allegations.

APPROVED BY:

[redacted]

Hugh E. Carter
Respondent

8-3-12
Date

POLSINELLI SHUGHART PC

By: [redacted]

8-3-12
Date

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ATTORNEYS FOR RESPONDENT

OFFICE OF THE KANSAS SECURITIES COMMISSIONER

By: [redacted]

8-9-12
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